

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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01/09/01



In re application of: Rosen et al.

Application Serial No.: Unassigned

Group Art Unit: Unassigned

Filed: Herewith

Examiner: Unassigned

For: Nucleic Acids, Proteins, and Antibodies

Attorney Docket No.: PM044

**PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.183
TO SUSPEND THE RULES INVOLVING A FIFTY PAGE MINIMUM FOR
TABLES TO BE FILED ON COMPACT DISC (37 C.F.R. § 1.52(e)(1)(iii))**

Commissioner for Patents
Washington, D.C. 20231

Sir:

This is a petition to the Commissioner under 37 C.F.R. § 1.183 requesting a waiver of 37 C.F.R. § 1.52(e)(1)(iii) which requires that tables to be submitted to the Patent and Trademark Office on a compact disc have more than 50 pages of text. The grounds and conditions for granting this petition are set forth in the Statement of Facts presented below. The fee required with this Petition under 37 C.F.R. § 1.183 is estimated to be \$130.00 under 37 C.F.R. § 1.17(h). The Commissioner is authorized to charge the required fee of \$130.00 to Deposit Account No. 08-3425. A copy of this sheet is enclosed for accounting purposes.

Statement of Facts

37 C.F.R. § 1.58(a) provides in relevant part that "[t]he description portion of the specification may contain tables. . ." The Rules also provide that a table may be submitted to the Patent and Trademark Office in electronic form on a compact disc. *See*, 37 C.F.R. § 1.52(e)(1)(iii). However, 37 C.F.R. § 1.52(e)(1)(iii) also requires that only tables having more than 50 pages of text may be submitted on a compact disc.

The captioned application discloses data presented in multiple tables located throughout the specification. Petitioners contend that it is an extraordinary administrative burden for both the Patent and Trademark Office and Petitioners themselves to produce, coordinate, and manipulate multiple tables, wherein the number of tables to be produced, coordinated, and manipulated in paper versus electronic formats varies considerably. Petitioners' difficulty will increase considerably in view of the fact that the captioned application is only one of a series of approximately 200 applications to be filed within a period of one month. Petitioners recognize the fact that each application is judged according to its own merits and independently of any other application before the Patent and Trademark Office. However, in view of the fifty page minimum required by 37 C.F.R. § 1.52(e)(1)(iii), Petitioners are faced with the extraordinary task of producing, coordinating, and manipulating more than 20,000 pages of tabulated information.

Thus, it is respectfully submitted that the production, coordination, and manipulation within one month of paper copies of all tables less than fifty pages when combined with a roughly an equal number of tables filed in compact disc format constitutes an "extraordinary situation" under 37 C.F.R. § 1.183 that should be addressed by a waiver of the rules. In particular, Petitioners request a waiver of 37 C.F.R. § 1.52(e)(1)(iii), which requires that only tables of greater than fifty pages may be filed in compact disc format.

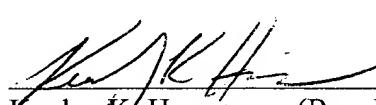
Conclusion

The fifty page minimum requirement regulation is not "a requirement of the statutes." Accordingly, the Commissioner is granted the authority under 37 C.F.R. § 1.183 to waive this rule when there is a showing of an "extraordinary situation."

Petitioners respectfully submit that the above facts outline an "extraordinary situation" for which the Commissioner is granted the discretionary authority to waive a requirement of the regulations. Having met the requirements of 37 C.F.R. § 1.183, Petitioners request a waiver of 37 C.F.R. § 1.52(e)(1)(iii) in order to ease the extraordinary administrative burden on both the Patent and Trademark Office and on Petitioners and permit Petitioners to submit all tabular data in the captioned application in compact disc format.

Respectfully submitted,

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Kenley K. Hoover (Reg. No. 40,302)
Attorney for Applicants

Human Genome Sciences, Inc.
9410 Key West Avenue
Rockville, MD 20850
Telephone: (301) 610-5771